

EXHIBIT 9

SANDRA KIRKMAN, ET AL. vs STATE OF CALIFORNIA, ET AL.
Rod Englert on 02/20/2025

14 STENOGRAPHIC REPORTER'S TRANSCRIPT OF
15 DEPOSITION OF DEFENSE EXPERT
16 ROD ENGLERT
17 THURSDAY, FEBRUARY 20 2025

22 Reported Stenographically by:
23 KIMBERLY D'URSO, CSR 11372, RPR
24 Job No. 136908

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1 have working on this with you?

2 A. The same rate.

3 Q. You mentioned some colleagues, but can you list
4 the full list of colleagues or employees who are working
5 on this with you?

6 A. Yes. That would be Samir Lyons from Trial
7 Ready, the animation. Nikki, N-I-K-K-I, Waygar,
8 W-A-Y-G-A-R. She's one of my associates. And then
9 Cheryl, C-H-E-R-Y-L, Kanzler, K-A-N-Z-L-E-R, another one
10 of my associates. They're analysts. Their expertise is
11 in reconstruction.

12 Q. What did you understand your assignment to be
13 in this case?

14 A. To reconstruct this OIS, this officer-involved
15 shooting.

16 Q. Some parts of your report discuss the
17 trajectory of the bullet, based on the wounds that are
18 found later and in the autopsy report. Could you
19 describe just broadly for me, how you go from seeing
20 injuries in an autopsy to determining what the
21 trajectory of the bullet was through the body?

22 A. Yes. The first thing that we will do is look
23 at the autopsy report, then look at the autopsy
24 photographs, and then look at the physical evidence,
25 which has been kept, and analyze the physical evidence

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1 and see if those wounds correspond to the defects on the
2 clothing and the pathway through the body.

3 And any exits become important. Any missed
4 shots become important. And where that terminates --
5 where that bullet terminates -- there's like internal
6 ballistics, transitory ballistics, and terminal
7 ballistics.

8 And then where those terminate, that can tell
9 you the pathway of that bullet, even if it goes through
10 an object or goes through a body, where it terminates.
11 And in this instance, the truck is where some of that
12 terminated, and Mr. Alaniz's person -- am I saying that
13 right, Alaniz, your client?

14 Q. Alaniz.

15 A. Okay. So where that terminates gives us a
16 pathway. And it's reverse engineering. And you work
17 backwards -- in the body, you work backwards. And that
18 give you right to left, up to down, type of pathway,
19 which is called a "trajectory," which is considered to
20 be ballistics.

21 Q. Okay. I apologize for the really basic
22 question here, but if you have an entry wound and an
23 exit wound, are you essentially drawing a line from one
24 to the other to get the trajectory? Is that how it
25 works?

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1 A. That's true, if there's no deflection within
2 the body or within the object, and deflection or
3 ricochet is very evident. In other words, if a bullet
4 goes in from the side of my ribcage and exits out of my
5 chest, that doesn't compute, unless it ricocheted off of
6 something, the spine or something, which is extremely
7 rare.

8 Q. **And so the same method of -- you know, would**
9 **that apply to internal -- when you find a bullet**
10 **internally? So would you take the entry wound and then**
11 **make a line between that and where the bullet is**
12 **recovered in the body to get to where the trajectory is?**

13 A. Yes.

14 Q. **In this case, did you think that there were any**
15 **of those rare internal deflections of the bullet that**
16 **you just mentioned?**

17 A. Not within the body, no.

18 Q. **Could you go through your opinion of the**
19 **trajectory of each shot fired by Defendant Silva, in**
20 **this case?**

21 A. I will start with my opinion regarding what I
22 think is the first shot, and it has to do with the
23 termination of those rounds within the body and against
24 a semi-truck. And as Alaniz is running towards Officer
25 Silva, Officer Silva fires, within just like a second,

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1 five rounds.

2 And working construction backwards, there's a
3 semi as his backdrop. And 4 feet up on the semi, at the
4 bed of the semi -- at the bed of the semi, a bullet
5 strikes. And that was a miss, but it's most probable
6 that that miss went through the right collar of the
7 jacket worn by Alaniz. And it was a bullet defect,
8 showing the entrance and the exit -- the threads will
9 always go the direction of the bullet -- and it hits the
10 truck.

11 Okay. That shot is higher than the rest that
12 is about to occur, that I'm going to explain. And that,
13 in my opinion, is most probable, number one. Because as
14 determined at the end of the shots that are fired, the
15 last one is going to hit the ground.

16 So just thinking that through, if that hits the
17 ground and it's much lower than the first one, that
18 shots are tracking Alaniz as he's running and as Officer
19 Silva is in his position.

20 So then the next shot, in my opinion, is while
21 Alaniz has to be canted to his left as he's running, and
22 he's shot in the right chest. The garment that he's
23 wearing corresponds to that wound, and that's just below
24 the shot through the collar that didn't touch Alaniz.
25 So that's considered a miss, the one that hits the semi.

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1 So number two is the chest, and then it goes in
2 a pathway from right to left and lodges in the left
3 lung. That gives you a pathway and direction that's
4 in-line with the first shot that went and hit the truck.

5 And then the next shot, in my opinion, number
6 three, goes through and hits what's called an
7 "intermediate target," which is the zipper on the garment
8 that Alaniz was wearing. And when that bullet goes
9 through the zipper hitting that intermediate target, it
10 breaks up and creates what's called an "atypical wound,"
11 which is in the right thigh.

12 And that being in the right thigh, it shows
13 it's atypical because there's portions of the zipper that
14 broke off and hit the right thigh. And that would be, in
15 my opinion, number three. Because as you can see, if you
16 think of the truck, now, 4 foot 3, the rest of the shots
17 that hit the truck are much lower. And this happens in
18 like less than a second.

19 So to break away from what I'm explaining and
20 go to the ground shot, there's no way that there's even
21 any time for Officer Silva to shoot high, low, and then
22 shoot high again.

23 Do you follow the sequence? It's just common
24 sense.

25 And then the next shot that hits Mr. Alaniz is

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1 in his left shin bone. And that's an unusual shot
2 because -- it is so unusual it's also called "atypical."
3 That -- it appears that that bullet of that last round
4 that went through, probably hit the ground, the pavement,
5 although there was no investigation that showed that
6 there was a gouge in the asphalt, or what have you -- and
7 grazes the shin, breaks up, and hits two other locations
8 on the truck, the lowest being the tire. It hit the
9 right front tire of the semi.

10 So you see we go back to the bed, and if you
11 follow the impacts to the side of the door of the truck,
12 down by the running board, and it's low. And even lower
13 is the tire. So as I'm showing you with my hands now, up
14 high there's shooting, and the shooting. And the
15 shooting goes on hitting the truck, those that miss, and
16 hitting the body of Mr. Alaniz.

17 And he's in a bent-over position. So if you
18 take the right thigh shot and then the right shoulder, as
19 he's bent over, that is a very short diameter. That's
20 like you could put a basketball over that and that's how
21 -- because he's bent over, makes it look as though --
22 well, it shows us that those shots were placed very
23 quickly as he's running. And some of them miss as he's
24 running.

25 So Officer Silva is backing up, and as he's

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1 being charged in that less than one second, those five
2 shots fired.

3 Q. Thank you. I think I understand the answer,
4 but I just want to go over it really quick to make sure
5 I got it.

6 So the first shot, your opinion is, it went
7 through the right collar and then into the truck? Is
8 that right?

9 A. Yes, the bed of the truck, where it was lodged
10 and found.

11 Q. Then the second shot went into the decedent's
12 chest. And the third shot hit the zipper and then went
13 into his right leg?

14 A. Right thigh leg, yes.

15 Q. And then could you explain again the fourth and
16 fifth shot, what your opinion about those is?

17 A. The fourth shot came in contact with the -- the
18 fourth or a fifth came in contact with the left shin
19 bone, and it had broken up, most probably, prior to
20 hitting the shin bone, separated, and then a portion of
21 it hit the tire, which was not recovered. Flattened the
22 tire. And then a portion of it hit the running board,
23 just above the running board, like 3 feet from the
24 ground.

25 So the bed of the truck was 4, the running

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1 board is like 3 in inches, and then the tire is about
2 the same. So it's just tracking from down -- or from up
3 to down.

4 **Q. So one of the bullets -- a single bullet struck**
5 **the ground, broke apart, and then hit the left shin and**
6 **two places on the truck; is that right?**

7 A. Possibly, yes. A portion of it did hit the
8 shin. And based upon our investigation and another --
9 Dr. Graham -- it's most probable. That shin bone is a
10 very atypical and unusual wound. And the medical
11 examiner can address it better than I can, which
12 indicates that the target --

13 (Reporter clarification.)

14 THE WITNESS: Dr. Graham evaluated it and came
15 to the same opinion. I read his report. He came to the
16 same opinion that it had to have been most probably an
17 intermediate target, meaning it's something between the
18 shin bone that was struck and the shooter.

19 BY MR. MAYNE:

20 **Q. Okay. So we talked about this one bullet,**
21 **either the fourth or the fifth that broke apart and hit**
22 **the shin, and then the truck in two places.**

23 So there's one bullet left to talk about.

24 **Could you describe what you think happened to that one?**

25 A. Don't know.

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1 Q. Do you have any possibilities that you have in
2 mind, or do you just have no idea what happened to that
3 bullet?

4 A. Well, two bullets were found: one in the truck
5 and one on the ground, and we can't place where that
6 came from. The one on the collar probably went into the
7 bed of the truck, and then you have two that go into the
8 body of -- then you've got the one that breaks up, and
9 another one -- and then there was another bullet found
10 underneath the truck.

11 So cannot sequence that. And then it's not
12 guesswork, you have to depend upon the evidence. That's
13 what the evidence tells us.

14 Q. Okay. Is there anything you can say about the
15 trajectory of that bullet -- and I understand we don't
16 know it's the fourth or fifth -- but I'm talking about
17 the bullet that came towards the end and was not the one
18 that injured the decedent's chin?

19 A. We don't have evidence that it's the one that
20 did it, but everything is from Silva's shooting towards
21 the east -- it would be the southeast, shooting towards
22 the southeast with all the shots.

23 And if you go to my report, you'll see we made
24 a cone shape. Everything is from his position and where
25 it hits the truck and, reverse engineering, you can put

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1 within that cone shape. That shadowing, you can place
2 Mr. Alaniz. Everything lines up.

3 And as I told you at the beginning, I said
4 these shots are most probable. I'm not saying with
5 absolute certainty that the one through the collar was
6 the first one, but it's most probable.

7 It's a common sense thing, is everything goes
8 from up to down; and Silva, from his left to his right;
9 and in the body of Mr. Alaniz, his right to left.

10 **Q. Okay. So just to make sure I'm understanding**
11 **this, you have an opinion about the trajectory of four**
12 **of the bullets, but not the fifth?**

13 A. Everything is laying in the direction of the
14 truck, whether it's under the truck or in the truck.
15 So, yes, it's the same. And when you look at the BWC,
16 the body-worn camera, you will see that the shell
17 casings that were coming out, they go towards -- it's
18 going towards the truck. The gun is aimed toward the
19 truck.

20 **Q. So you do have an opinion about that fifth**
21 **bullet we're talking about, and you think it's**
22 **trajectory went in the direction of the truck; is that**
23 **fair?**

24 A. All shots that were fired went the direction of
25 the truck, yes, the background.

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1 THE WITNESS: -- 11 foot 4 inches, plus 12
2 feet, I would say he's approximately 20 feet away when
3 he sees that. 20 feet, approximately.

4 Now, he's moving, but these are the distances
5 where the event occurred and measured.

6 BY MR. MAYNE:

7 **Q. And about how far was Officer Silva from**
8 **Van Dragt when Van Dragt pulled out his Taser?**

9 A. It would have been about the same distance,
10 about 20 feet.

11 **Q. When you said earlier that Officer Silva --**
12 **sorry. When you said earlier that the decedent was**
13 **canted to his left at the time of the shot to his chest,**
14 **could you be more specific about that? Like, how far**
15 **canted do you think he was?**

16 A. He was canted to the point to where as he is
17 canted to his left -- meaning his left shoulder is
18 pointed back towards the truck behind him -- allowed for
19 the entry into his right chest to go into the pathway to
20 the left lung, where it lodged. So that's a pathway.

21 That's a pathway that, if I were facing you as
22 we are now, and you shot me, that bullet would be front
23 to back.

24 This one is from right to left, lodged in the
25 left lung. That's the trajectory path.

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1 Q. So if I'm facing you, I would -- let's say I
2 describe this as, you know, we're zero degrees when
3 we're facing each other. How would you describe the
4 decedent's chest, in terms of the degrees, in relation
5 to Officer Silva?

6 A. It would be in such a degree that his right
7 side had to be turned towards Officer Silva. To give
8 you a degree, you don't do that in degrees because
9 there's too much there, too much bulk. You can't
10 determine that.

11 But we know a medical term for medical
12 examiners that you have right to left, front to back, up
13 to down, slightly this, slightly that. And so this one
14 is from right to left.

15 And when it lodges in the left lung, that's a
16 pretty sharp degree. It's an acute angle. As he would
17 have had to have been -- as I am doing to you on this
18 Zoom, you're looking at me 90 degrees. And when I turn
19 my right shoulder to you and as your eyes look at me
20 were to hit my right chest, where would that lodge? It
21 certainly wouldn't be in the right back. It would have
22 to be in the pathway, as the medical examiner has noted,
23 in the left lung.

24 Q. Do you think at that point he was still
25 pointing the object in his hands at Officer Silva?

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1 A. When he shot?

2 Q. **The second shot.**

3 A. What do you mean "at that point"? What do you
4 mean "at that point"?

5 Q. **So we're talking about the second shot, the one**
6 **that went through the decedent's chest. And I'm just**
7 **asking, at that point, based on your reconstruction**
8 **analysis, do you think the decedent was pointing the**
9 **object in his hands at Officer Silva?**

10 A. Yes. When Officer Silva started firing, it's
11 noted by the BWC, he's got it in his hand. It hasn't
12 dropped. He's coming at him. And he's coming at him
13 fast because the momentum carries him quite a few feet
14 beyond where he was shot, that you wouldn't do that if
15 you're standing still. You just go straight down and
16 collapse, if you're incapacitated.

17 And he was incapacitated, but yet his momentum
18 carried him further at the time that he was pointing the
19 gun and shot. At no point is there any evidence that
20 his hands were lowered and not pointing.

21 Q. **At what point do you think he was**
22 **incapacitated?**

23 A. Totally incapacitated? When he died at the
24 scene. But "incapacitated" meant that he went down
25 pretty quickly. I mean, he was in a forward movement.

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1 And when he was shot, he just continued down.

2 But his momentum carried him; and it's in a
3 table that we made, how far he was carried. He carried
4 himself, his momentum. That doesn't happen in
5 shootings, only on television where someone gets shot
6 and they're blown backwards or forward. I mean, your
7 momentum -- the energy from a projectile cannot overcome
8 the momentum of your body.

9 My question was a little different earlier. I
10 was just asking whether you think, at the time of the
11 second shot, the decedent was pointing the object in his
12 hands at Officer Silva?

13 (Simultaneous speakers.)

14 (Reporter clarification.)

15 MS. NASH: Asked and answered.

16 THE WITNESS: The time element is so short that
17 it would have been still pointed at him as he's going
18 down. There's no evidence to say otherwise.

19 It's all about that time threshold. It is so
20 short. It's like snapping my finger; and not many things
21 can happen in the snap of a finger.

22 BY MR. MAYNE:

23 Q. At some point was the decedent directly facing
24 Officer Silva in the way we talked about earlier, that
25 I'm directly facing you?

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1 A. Well, you can see that in the video, as he's
2 coming around approaching the door, yes, he's facing
3 him. But the evidence, which is very strong, is the
4 pathway of the bullet's through the body, that he had to
5 be canted and turned towards him.

6 **Q. So in the time, you know, that he was able to
7 cant or turn to the left, wouldn't that also be enough
8 time for his arms to move, so that he's no longer aiming
9 his arms at Officer Silva?**

10 A. I don't know. I don't know. Not seeing
11 that -- it's such a compressed amount of time, like less
12 than a second, that not much can happen.

13 Without having seeing it on the video, I can't
14 say that it would. But there's no indication that his
15 arm was lowered, and most probably not -- only because
16 that compressed amount time, I mean, less than a second.

17 I'm pointing my hand at you, and I drop my hand
18 like that, it would be where you practically cannot see
19 it in that short amount of time.

20 **Q. Right. So going back to just -- I know I have
21 asked it a few times, but I just was hoping to get a
22 clearer answer. It could be either "yes," "no," or "I
23 don't know" if, in your opinion, based on your
24 reconstruction, was the decedent pointing the object in
25 his hands at Officer Silva at the time of the second**

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1 shot?

2 A. Yes.

3 MS. NASH: Objection. Asked and answered.

4 Did you hear his response?

5 MR. MAYNE: Yes.

6 MS. NASH: Okay.

7 BY MR. MAYNE:

8 Q. Do you have any reason to think that, outside
9 of the testimony of Officer Silva?

10 A. The evidence does not support him having
11 dropped his hand when the shots are fired. They
12 eventually go down, yes, but not to the point that he is
13 charging and running and puts his hand down to say "I
14 give up."

15 Now, when you consider all the circumstances
16 that happened prior, him trying to jump in front of
17 trucks, put his head under a truck, those kind of
18 things, there is no indication or evidence that he
19 lowered his hand. And you wouldn't see it. It would
20 not happen because of that short amount of time.

21 So I can't answer that "yes" or "no," other
22 than, in my opinion, he's still pointed at him when the
23 shots are fired. The shots are fired in less than a
24 second.

25 Q. Right. Okay. So the fact that his body is

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1 actually canted left, not facing Officer Silva, you
2 don't think that that is some evidence that he was no
3 longer pointing anything at Officer Silva?

4 A. Not during that time period.

5 Q. What if he had turned all the way around so he
6 was canted, so that he was looking away from Officer
7 Silva? In that case, hypothetically, would you think
8 that that's evidence that he's not aiming at Officer
9 Silva?

10 A. I can't --

11 (Simultaneous speakers.)

12 MS. NASH: Objection. Incomplete hypothetical.

13 THE WITNESS: Yeah. I cannot address that. If
14 he turned all the way around, the hand could still be
15 pointed as he turns, but that's just guesswork.

16 We have the solid evidence of what happened,
17 not only based upon what we see in the BWCs, but looking
18 at the physical evidence, the clothing, and the
19 interviews. All that is evidence.

20 BY MR. PAYNE:

21 Q. Okay. So what's the specific evidence that
22 makes you think that he was pointing at Officer Silva at
23 the time of the second shot?

24 A. Look at the video. I mean, the video is very
25 clear that he's coming at him, and with such momentum,

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1 there's no way for him to change direction. He's
2 running as fast as -- he's running --- as supported by
3 witnesses, as supported by Van Dragt, as supported by
4 Silva -- he's moving at a very fast pace.

5 You can see it in his legs. And for him to
6 just stop and transition, it just doesn't make sense.
7 So he's still pointed when those five rounds go off,
8 less than a second to protect his partner, who he think
9 has been shot and to protect himself, who has no cover,
10 that being Silva.

11 Q. So the only reason you think that he -- that
12 the decedent was still aiming at Officer Silva at the
13 time of the second shot is your review of the body-worn
14 camera and how, at some point, he is aiming at Officer
15 Silva; is that right? Or is there other evidence?

16 MS. NASH: Objection. Misstates prior
17 testimony and misleading the witness.

18 THE WITNESS: Ask it again.

19 BY MR. MAYNE:

20 Q. I'm just trying to understand -- so let me
21 phrase it this way: I mean, would you agree that
22 there's no video evidence of the exact moment when the
23 second shot is fired for us to actually see the
24 decedent's body at that moment?

25 A. In my opinion, based upon my experience and

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1 training, that when those rounds start going off, he's
2 pointing -- you can see him pointing the gun at him.
3 And in less than a second, can he change his position
4 and stop and lower his hands and do anything different,
5 other than go to the ground? So in that moment in time,
6 that when those shots are fired by Silva, he has made a
7 decision to protect his partner and protect himself.

8 And this is getting into practices, which, you
9 know, you can stop me if you want to. But there's no
10 way to change. He can't -- Alaniz can't change. It's
11 just not humanly possible for him to stop, lower his
12 gun, and then he ends up about 12 feet further, carried
13 by his momentum.

14 And that's where all the evidence has dropped
15 to the ground, the object he was holding onto in his
16 hand.

17 Q. Okay. That wasn't really answering my
18 question. My question was just: Would you agree that
19 there's no video evidence showing the decedent's body at
20 the time of the second shot, because the video was
21 obstructed by Officer Silva's hands?

22 A. So in the last three-quarters of a second, no,
23 you cannot see what happened.

24 Q. So your opinion that the decedent was still
25 aiming at Officer Silva is an inference of some kind,

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1 based on other information, since we don't have the
2 direct video of that moment?

3 A. In that very short period of time, in like, I
4 guess, even half a second, for him to change position,
5 all I know is he's canted and he's going down. And what
6 the position of his arms are at that point, I don't
7 know.

8 But common sense tells you that he's going to
9 the ground from the position that he was in when he's
10 pointing what appeared to be a gun in Officer Silva's
11 direction.

12 Q. Okay. So you would agree, then, that your
13 opinion at the end of the day is you don't know where
14 his arms were pointed at the time of the second shot?

15 A. I disagree with that.

16 MS. NASH: Objection. Misstates prior
17 testimony. Misleading to the witness.

18 (Reporter clarification.)

19 (Simultaneous speakers.)

20 THE WITNESS: Go ahead. I'm sorry.

21 BY MR. MAYNE:

22 Q. I must have misunderstood your last answer. So
23 I thought that you said you didn't know the exact
24 position of the decedent's arms at the time of the shot
25 to the chest.

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1 A. I don't think I said that. Maybe go back and
2 read it to me.

3 Q. **That's okay. Let's just think about it this**
4 **way: So beyond the body-worn camera video, is there any**
5 **other evidence that leads you to infer that the decedent**
6 **was aiming his arms at Officer Silva at the time of the**
7 **shot to the chest?**

8 A. It's pretty clear in the BWC, body-worn camera,
9 that he was pointing what appeared to be a gun at him.
10 And that the first shot would have been high, through
11 the collar, which was -- as Officer Silva said, it was a
12 shot towards his midbody to stop the threat. And there
13 is no evidence that he could have changed, other than go
14 to the ground.

15 Q. **So, I'm sorry, I'm not a biomechanist, or**
16 **whatever, so this question might be a little bit naive.**
17 **But if there's time for his body to physically cant to**
18 **the left, then why wouldn't there be time for his arms**
19 **to cant with his body? Wouldn't that take the same**
20 **amount time?**

21 A. Well, if his body cants to the left, his arm is
22 going to follow.

23 Q. **So his arms were canted to the left, along with**
24 **his body, at the time of the second shot?**

25 A. It would have been, yes. It would just follow

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1 his body for it to go into the chest in a pathway from
2 right to left.

3 Q. So your earlier stated opinion that he was
4 still aiming his arms at Officer Silva at the time of
5 the shot to the chest is not accurate? It's not your
6 actual opinion? Your opinion is that he was no longer
7 aiming his arms at the officer?

8 A. No, not at all.

9 MS. NASH: Objection. Misstates prior
10 testimony.

11 BY MR. MAYNE:

12 Q. Okay. We're really speaking different
13 languages here. I thought you just said that the arms
14 would track with the body and be canted to the left.
15 Did I mishear that?

16 A. That doesn't mean that the pointing of the arm
17 would have changed at him. As he turns left, his
18 shoulder is going to follow. He's got a two-hand hold,
19 and you can see that in the video.

20 And again, don't neglect to consider there's a
21 time element here, like less than a second. Not much
22 can happen, other than the continuance of his running
23 towards Officer Silva. There's nothing, as I'm
24 understanding you -- and I know where you're going with
25 this -- or I think I do -- that as he turns, he's going

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1 straight down to the ground. He's already been hit.

2 The truck has been hit before he even hits the ground.

3 So you're talking -- nothing can happen in that
4 very short period of time to change positions to do
5 anything different.

6 Q. Okay. That helps. That makes sense.

7 So since nothing can happen to change positions
8 in this very short time, would you agree that the
9 decedent's position at the time of the shot through the
10 chest was about the same as the decedent's position when
11 the shots started?

12 A. Yes, I would, because of the fact the shot
13 through his garment and hitting his right thigh and
14 hitting his left shin, it happened so fast that he's in
15 that canted position. Now, I mean, he's not 90 degrees
16 to him, because that would have put a different pathway
17 through the thigh and all through the chest.

18 He's just canted. And canted is not an extreme
19 turning. But his arm and shoulder would have
20 followed -- it's so simple -- not a lot -- as he's
21 coming towards him when he disappears out of the view of
22 the BWC because of the shooting.

23 Q. So given that you agree, even at the time of
24 the first shot he was -- the decedent was canted to the
25 left, is it possible he was not aiming his arms at the

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1 **officer at that point, that his arms were in line with**
2 **the rest of his body, body pointing towards the left of**
3 **where the officer was?**

4 A. If this was a time interval of five, ten
5 seconds, anything could have happened; but in less than
6 a second, when the shots were being fired, to change to
7 a totally alternate position is not -- in my opinion,
8 it's not possible. It's just too fast.

9 I mean, Officer Silva sees what's coming at
10 him, that he believes to be a gun, and he shot because
11 he thought his partner had been shot. And once that
12 identification is made by his eyes, transfers that to
13 his brain, to pull the trigger, and it's over in less
14 than a second.

15 Not much can happen with the person that's
16 running at him with what appears to be a gun, as far as
17 stopping the threat: Hey, I'm done. Dropping what he
18 had in his hands. What he had in his hands continued on
19 with his body because it was out around him. That
20 didn't just drop to the ground. There was no stopping.

21 Q. **Did you review Officer Van Dragt's testimony**
22 **that the object in the decedent's hands was most likely**
23 **a glasses cases?**

24 A. He did not know that until at the end. He said
25 a cylindrical object was in his hands. He did not know

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1 **Q. So the best estimate I can get from this is he**
2 **backed up from somewhere between a centimeter and 30**
3 **feet. Is that consistent with your opinion?**

4 MS. NASH: Objection. Misstates testimony and
5 argumentative. Lacks foundation. It is seeking to
6 solicit speculative answers from this witness.

7 THE WITNESS: I don't know.

8 BY MR. MAYNE:

9 **Q. Okay. In the video that you made, how did you**
10 **decide how many steps and how far back Officer Silva**
11 **should go in the reconstruction of the shooting?**

12 A. Well, first of all, we don't determine how far
13 he should go. We go by the reconstruction with him that
14 took place at this -- at the location where we did the
15 reconstruction.

16 And there was no measurement of how far he
17 backed up because, in his own mind, he doesn't know. He
18 didn't run. He didn't turn. He had no cover. And he
19 defensively stepped back in that one second in time --
20 which how far can you go, that one second in time when
21 the shots are fired?

22 So there was no way, other than having video --
23 which we don't have. And you can't tell on the shots
24 that are fired. When his gun is up in front of him, you
25 can't tell how far.

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1 But he didn't run back to his motorcycle. He
2 didn't run to the unit. He didn't go forward. He
3 defensively came back to stop the threat. What that
4 exact measurement is, nobody knows.

5 **Q. So when you were doing the reconstruction, was**
6 **Officer Silva present there?**

7 A. Yes.

8 **Q. Who else was present?**

9 A. Nikki Waygar. Nikki Waygar, Cheryl Kanzler.
10 The ones that I previously mentioned.

11 **Q. Were there any attorneys there?**

12 A. Mr. Roistacher was there. I'll tell you
13 exactly who was there.

14 Officer Silva. Samir Lyons, that I mentioned
15 earlier. And then one of his associates, Tucker Lemmu;
16 T-U-C-K-E-R is the first name, and then L-E-M-M-U. And
17 then Ms. Kanzler and Ms. Waygar. And the attorney,
18 Mr. Roistacher.

19 **Q. Was David Blake there?**

20 A. No.

21 **Q. Did you talk to Officer Silva about his**
22 **recollection of events during that reconstruction**
23 **meeting?**

24 A. It was discussed, yes. And I talked to him
25 previous to that, when I made a trip in November to look

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1 at physical evidence. And he was with us present at
2 that time, and I talked to him.

3 Q. Did he -- did he tell you during that
4 conversation that he thought the decedent was pointing
5 the object in his hands at him, at Officer Silva?

6 A. Yes. His life, he felt, was threatened.

7 Q. But did he tell you that the decedent was
8 pointing the object in his direction?

9 A. That -- yes, that he was pointing a gun at him.

10 Q. Do you remember reviewing Officer Silva's
11 deposition in which, under penalty of perjury, he
12 testified that the decedent was pointing the object in
13 his hands at his partner, Officer Van Dragt?

14 A. No. He thought Officer Van Dragt had been shot
15 when the person was coming towards him with the gun.
16 And he was -- he didn't have any cover and he thought --
17 he thought, "Well" -- you know what he thought, he said,
18 "I thought of my kids."

19 Q. But you don't recall the deposition testimony
20 of Officer Silva, saying that he thought the decedent
21 was pointing the object in his hands at Officer
22 Van Dragt?

23 A. Which would have been the same direction of --
24 (Simultaneous speakers.)

25 (Reporter clarification.)

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1 THE WITNESS: -- himself, also, Silva.

2 MS. NASH: Yeah. The objection was that it
3 assumes facts, Misstates the prior testimony, and
4 argumentative.

5 Mr. Engler, before you answer a question, could
6 you just kind of pause, so that I can get in an
7 objection? Actually, so much time goes by that my
8 objection gets lost, and it's hard for the court reporter
9 to take both of us down.

10 So if you could just kind of hold back on your
11 answer just a minute -- just a second, actually, and I
12 can get in and lodge an objection, I think that will make
13 things go more smoothly.

14 THE WITNESS: Okay. And your video is going in
15 and out. I don't know what you would -- how would you --
16 it stops and, like, you're frozen now.

17 MS. NASH: I'm frozen now? Okay. I'll switch
18 devices. We can go forward or go off the record for just
19 a minute, and I'll switch from the device I'm on now to
20 another one.

21 MR. MAYNE: We can just stay quiet for a minute
22 while we wait for you.

23 MS. NASH: All right.

24 (Pause.)

25 (Break taken.)

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1 BY MR. MAYNE:

2 Q. Okay. First, I just wanted to go back to
3 something that came up earlier and make sure we're on
4 the same page.

5 Do you recall that inside the glasses case
6 there was a pipe found?

7 A. Yes.

8 Q. And that at the scene there was also a black
9 vape found on the ground?

10 A. That is correct.

11 Q. I just want to make sure I got it right, that
12 your opinion is that the object in the decedent's hands
13 was the glasses case with the pipe inside, and not the
14 black vape?

15 A. Don't know which.

16 Q. So in your report, could you please turn to --
17 one second, as I find the page.

18 A. "Second" refers to "report."

19 Q. In your February 10th report, could you turn to
20 page 29?

21 A. I have it.

22 Q. Here you have a heading that says: "Alaniz
23 held a glasses case with his hands raised in front of
24 his chest."

25 But even though that's in your report, you're

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1 saying now that you're not sure that it was a glasses
2 case that was in his hands?

3 A. No. I did not say that.

4 MS. NASH: Objection. Misstates prior
5 testimony.

6 (Reporter clarification.)

7 THE WITNESS: I did not say that.

8 BY MR. MAYNE:

9 Q. Okay. So just so we have a clear record, in
10 your opinion, having reviewed all the evidence and the
11 testimony, what object do you think was in the
12 decedent's hands at the time he was shot?

13 A. In my opinion, the glasses case was in his
14 hands. It's 3 by 5 inches in size, brown. And inside
15 of it was like a glass. Not the vape, but the other
16 sort of smaller than the glasses case object. That was
17 also in it when we looked at it.

18 Q. When you had that meeting where you were doing
19 the reconstruction, did you take any video of the
20 meeting?

21 A. No, there was no video. There was the -- the
22 animators took video, but my team did not take video.

23 Q. Did anybody take photos?

24 A. Photos were taken that you should have. They
25 were sent to you, I think.

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1 Q. And in your report, you said part of the
2 process was to test different positions to see what was
3 consistent with the evidence; is that right?

4 A. Yes.

5 Q. Were pictures taken of the positions you took
6 that didn't end up being your conclusion? In other
7 words, did you take pictures of the whole process or
8 only of the conclusion?

9 A. The conclusions.

10 Q. The shot that you think happened first went
11 through the collar. And my understanding from your
12 report was you think that that was possible because the
13 decedent was bending forward and blading his body at
14 that time; is that right?

15 A. Yes. That would have been possibly the first
16 shot -- probably the first shot because of the height of
17 it was on Mr. Alaniz, and the height at 4 feet that it
18 was on the truck bed, the bed of the truck, as he was
19 bladed and going down.

20 He was a bent-over position as he was going
21 down. Based upon a fact beyond change. A fact beyond
22 change is something that can never be changed. You have
23 the impact into the trailer. You also have the entrance
24 and the lodged bullets in his person and in the collar.
25 Those can never be changed.

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1 And you depend upon those, and that's what
2 leads us toward giving the concluding opinion, all of
3 those facts. People can lie, but the evidence can never
4 lie.

5 **Q. And based upon the evidence, you're saying he**
6 **was bent forward because he was in the process of going**
7 **down?**

8 A. Yes. That he was bent forward as he was
9 charging, because he's going at a fast pace and that he
10 was bladed and bent forward. That's why, if you take
11 the right thigh shot and you take the shoulder shot and
12 the collar, those are really close together only when
13 you're bent over, not when you're standing up.

14 **Q. Now, could you turn to page 25 of your February**
15 **10th report?**

16 On the third bullet point it says that: "At
17 the time of the shot to the chest, Alaniz was leaning
18 forward and/or falling forward."

19 Did you mean that you're not certain whether he
20 was falling at that point?

21 A. Don't know; because it could have been a
22 combination of both, when, mind you, again, it's less
23 than a second.

24 **Q. So, in your opinion, he could have been falling**
25 **at that point?**

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1 A. He was falling at that point.

2 Q. And we're on the same page that we're talking
3 about the time of the shot to the chest?

4 A. Yes, bullet point No. 3.

5 Q. Did you physically examine the Taser barbs that
6 came from Officer Van Dragt's Taser?

7 A. Yes. They were -- one of them was missing and
8 was not booked into evidence, and then there was a Taser
9 barb that had no indication on it that it had impacted.

10 Q. Did you test it for DNA or biological material?

11 A. No.

12 Q. Is it possible for small amounts of biological
13 material to be on an object but not visible to the naked
14 eye?

15 A. Yes.

16 Q. Can you rule out in your opinion that in this
17 case there was some small amount of biological material
18 on the barb that you examined?

19 A. There was no evidence that the barbs went into
20 anything biological. The body was examined. There was
21 no evidence. Doesn't mean that it wasn't there. And
22 then upon looking at the clothing itself, specifically,
23 it was examined to see if there were any barbs not only
24 in it, but a defect where a barb had gone in, and
25 there's no evidence of that.

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1 Q. **What would evidence of a barb going into**
2 **somebody's skin be? Would a puncture wound be evidence**
3 **of that?**

4 A. Well, it would be considered a puncture wound,
5 like a little defect in the skin. But this -- mind you,
6 there were a lot of abrasions and contusions that could
7 have been disguised if it were there, too.

8 Q. **Do you recall in the autopsy that there were**
9 **two puncture wounds noted on the decedent's right arm?**

10 A. No. I don't recall two puncture wounds. Could
11 you show that to me?

12 Q. **Yes, I can pull it up.**

13 A. And the picture, also.

14 Q. **While I find that, let me ask you a**
15 **hypothetical: If there were two puncture wounds to the**
16 **right side of his body, given what you know about**
17 **everybody's position at the scene, would that be some**
18 **evidence that the Taser deployment was successful?**

19 MS. NASH: Objection. Incomplete hypothetical,
20 Lack of foundation.

21 THE WITNESS: It was specifically -- the body
22 was searched for darts penetrating the body, and there
23 was no evidence of that. That --

24 And that was something that we also look for.
25 And so the medical examiner would have to have reported

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1 that. Could they miss it? Yes. But there's no evidence
2 of it, not only on the body, but also on the clothing.
3 There was no evidence of that. And I'd like to see what
4 you're talking about.

5 BY MR. MAYNE:

6 Q. Yeah. I'll pull up this page. Can you see it?

7 A. Yes, sir, I can.

8 Q. Can you see on the right side it says:

9 "Possible puncture on the right arm of the decedent"?

10 A. I do.

11 Q. And then: "Possible puncture on the left arm
12 of the decedent"?

13 A. I do.

14 Q. Did you consider that in forming your opinion
15 of whether the Taser barbs punctured the decedent's
16 body?

17 A. Well, Taser barbs have a unique puncture-type
18 wound because they have little barbs on it. And there's
19 no evidence that these are Taser barbs. And the medical
20 examiner would have noted that because he or she -- all
21 autopsies look for -- if there's a situation like this,
22 for Taser punctate. None reported.

23 Q. Okay. In the animation, the decedent has the
24 object in his hands all the way till the end when he
25 falls on the ground, and then the object leaves his

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1 **hands. I'm wondering, how did you decide that that is**
2 **what happened when you were making the animation?**

3 A. Well, there's evidence of an object, and in
4 that one-second time period when the shooting occurs, we
5 know, based upon the evidence and the resting position
6 of Mr. Alaniz, that he did go down.

7 And at some point in there, there's no evidence
8 to know exactly when the evidence was dropped, but we
9 know it wasn't dropped at his feet where he's seeing
10 running by the car door, but that it is around his body.
11 So it went down with his body.

12 So you don't take it out. You leave it in,
13 because at some point it came out of the hand.

14 **Q. Could it have left the hand before he fell to**
15 **the ground?**

16 A. No evidence of that.

17 **Q. But there's also no evidence that it was in his**
18 **hand at the moment he fell to the ground. Would you**
19 **agree with that?**

20 A. No.

21 **Q. So what's the specific evidence that it was in**
22 **his hand at the time he fell versus a moment before,**
23 **when he hadn't quite fallen yet?**

24 A. The one second when we know that it was in his
25 hands based upon the body-worn camera, and in that one

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1 second we know that what causes him to go down are
2 gunshots to his person. And in that one second, you
3 can't have any non-display or display of the weapon,
4 because we don't know exactly during that one second
5 that he's shot and going down, which is all very, very,
6 very fast. Nobody knows.

7 So it was kept to the point that it went to the
8 ground. If it wasn't exactly in his hand, it's got to be
9 close to his hand.

10 Q. So to restate your opinion, you're saying
11 nobody knows whether it was actually in his hand from
12 the time that the camera is obscured by Officer Silva's
13 hand and the time he falls to the ground; is that right?

14 MS. NASH: Objection. Misstates prior
15 testimony.

16 THE WITNESS: You asked me to re-think it. The
17 evidence shows that when those shots began in that
18 one-second period of time, from where the body is, we
19 know he goes down. And that's to that momentum that we
20 were talking about, the 6 feet, the 12 feet. And I don't
21 know if you understand that yet.

22 But he goes down, and in that short period of
23 time, could I say it's exactly: No, he carried it all
24 the way down to the ground and then threw it? No. Can I
25 say that he lost it as soon as he was shot? No. But

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1 it's all right where his body is.

2 And we know that he started going down, and his
3 momentum has carried him forward to where the evidence is
4 around his body. It's just common sense.

5 BY MR. MAYNE:

6 Q. Right. I agree it's common sense. I'm just
7 trying to understand what the scope of your opinion is.

8 So do you have an actual opinion about at what
9 point he lost contact with the gun [sic]? Or is your
10 opinion that we can't really know that; that it happened
11 sometime between the first shot and the last shots?

12 MS. NASH: Objection. Misstates prior
13 testimony. And this witness has already asked and
14 answered this question.

15 You can go ahead and do it again, if you feel a
16 clarification is necessary.

17 THE WITNESS: First of all, you called it a
18 "gun." It wasn't a gun.

19 BY MR. MAYNE:

20 Q. Freudian slip.

21 A. That's okay.

22 But there's no way to know because it's out of
23 view. But we know that in that short period of time --
24 again, less than a second -- when he's shot, he's going
25 to the ground. He's already turned himself to the

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1 shots, and he's going to the ground, and he's got the
2 "gun" [sic] pointed at him. I said it, too, what is
3 thought to be a gun, when he goes down.

4 **Q. Okay. Thank you for bearing with me. That**
5 **helps me understand.**

6 **So based on what you just said, it is possible**
7 **that at the moment of the shot to the chest --**

8 (Reporter clarification.)

9 BY MR. MAYNE:

10 **Q. Based on what you just said, would you agree it**
11 **is possible that the decedent lost contact with the gun**
12 **a moment after the shot to the chest?**

13 A. No, I won't agree to that. You got to think
14 about time and momentum. And at some point in that
15 time, the -- what was thought to be a gun is found next
16 to his body. And that's somewhat, you know, away from
17 where the shooting first started, because of his
18 momentum.

19 So the camera does not pick up that at all.
20 But we know in that short amount of time, that less than
21 a second, that he's going down and is on the ground with
22 the objects around him. Not back by the door. Not back
23 where it started. Not straight at his feet. But it's
24 carried with that momentum of his person, his body.

25 **Q. Okay. Maybe it will help to look at the frame**

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1 by frame, and I have some other questions about that,
2 too. So I'll share this exhibit. One second.

3 (Exhibit Number 1 was marked.)

4 BY MR. MAYNE:

5 Q. So that is a frame-by-frame version of the
6 body-worn camera that was also zoomed in. It was
7 produced by a defense expert, David Blake.

8 Have you seen this before?

9 A. Yes.

10 Q. Okay. So --

11 (Simultaneous speakers.)

12 A. I've seen it, but from our standpoint. I don't
13 recall seeing it from David Blake.

14 Q. Okay. So I'm just going to scroll through and
15 just ask a couple questions.

16 At this point, does it appear that the decedent
17 is facing the body-worn camera?

18 A. I cannot tell. His head is pointed toward --
19 let's say I'm the body-worn camera, and it appears to be
20 looking at me, yes. And it's in a running posture.

21 Q. Could you describe, in your view, what
22 direction the decedent's body is going relative to the
23 camera?

24 A. Straight at the camera.

25 Q. And for the record, sorry, we were referring to

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1 frame 7. Is that -- can you just confirm that that's
2 your opinion about frame 7?

3 A. Yes.

4 Q. Do you notice a difference in the decedent's
5 posture between frame 7 and frame 9?

6 A. Back up again to 7. Okay. Go forward again.

7 The leg has transitioned -- the left leg has
8 transitioned, yes, in a running posture.

9 Q. This is frame 11. Do you see the Taser to the
10 left on the frame?

11 A. I do.

12 Q. Is this around the time when the Taser had been
13 deployed?

14 A. It would be around the time, yes.

15 Q. Do you think the decedent's hands at this point
16 are still up and pointing the object at Officer Silva?

17 A. Well, if you go to our photographs, they're a
18 little bit better than what you have here. But you
19 can't tell with that particular photograph, from
20 Mr. Blake's rendition.

21 Q. Okay. So now getting back to the object in the
22 hand, here do you see in the video evidence that the
23 decedent still had an object in his hands?

24 MS. NASH: Objection. Lack of foundation.

25 You're asking this witness who did his own stills to talk

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1 about somebody else's and interpret them. I imagine you
2 have his stills. But at any rate, it's still lack of
3 foundation, with this witness, with these particular
4 photographs or pictures, exhibits.

5 (Reporter clarification.)

6 BY MR. MAYNE:

7 **Q. You can still answer, if you can.**

8 A. Well, these photographs are insufficient and
9 not as having the same quality as the ones we have on
10 page 30. If you look at that, you can clearly see.
11 It's from the BWC, with his hands in front of him,
12 holding a dark-colored item, with both hands pointed
13 towards Silva.

14 What your showing me there compared to what I
15 have on page 30 of my first report is totally different.
16 This one is not -- this is a frame by frame. But if
17 you -- again, there's more there that can be seen as
18 opposed to what you see here.

19 Clearly, you see the Taser. You see Van Dragt
20 trying to run away. And that's the chaotic part of this
21 that I talked about. And you can see Silva with his
22 weapon pointed toward this very dark object. So if
23 that's all that I could see, then I would -- then I
24 would be in error to say he's holding an object.

25 But when you look at it clearly, based upon

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1 this report that's in front of you, I think you can even
2 see what appears to be something pointed at him that he
3 interprets as a gun, as he's coming around -- rounding
4 the corner around the driver's door.

5 Q. Understood. So at this point I'll ask it this
6 way -- at this point, in your opinion, does he still
7 have that object in his hands?

8 A. Upon looking at what you're showing me on the
9 Zoom call?

10 Q. No. Just based on your opinion of what
11 happened. Not based on this picture.

12 A. Yes.

13 Q. Okay. That's all I was trying to get at.
14 Now, going forward, at this point, frame 13,
15 Officer Silva's hands start to come up and obscure our
16 view of the decedent and his hands. Would you agree
17 with that?

18 A. Yes.

19 Q. Would you agree that after this point, we no
20 longer have a visual on the decedent's hands?

21 A. Your question --

22 MS. NASH: Objection. Foundation. Misleading
23 to the witness.

24 BY MR. MAYNE:

25 Q. I can go through, first, just the frames. So

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1 we'll start at 13, and I'll just go through the
2 shooting, so give me one second to do that, and you can
3 look along.

4 Oh, I think I stopped a little early. One
5 second.

6 Okay. So I don't want to waste too much of our
7 time trying to find the right exhibit. So what I'm
8 trying to get at is there's a period of time between when
9 Officer Silva's hands come up, obscuring our view of the
10 decedent's hands and the time that the decedent's body is
11 seen on the ground later in the body-worn camera.

12 Would you agree that between those times, we
13 don't see the decedent's hands.

14 A. I agree you don't see what has happened, what
15 the evidence shows us. I do see that. That doesn't
16 change the opinion, because of time, compressed time of
17 less than a second.

18 Q. So in your opinion, you stated that the
19 shooting happened over the course of about 1.25 seconds;
20 is that right?

21 A. The shooting occurred -- all the five shots
22 occurred less than a second. The Taser went off
23 simultaneous, just like a half-second before that
24 occurred. And all of this occurred within a 4-second
25 time period from the time that Alaniz left the shoulder

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1 of the road, ran around out of view of Silva, around the
2 back of the car, and out of the view because of the car
3 door being opened, when he sees something pointed at him
4 and someone running at him and decides to shoot.

5 And in that short period of time, again, you
6 don't see what the evidence tells you.

7 Q. On page 25 much your February 10th report, on
8 the second bullet point it says: "A total 5 gunshots
9 were observed on the video recording for an extent of
10 approximately 1.25 seconds or less."

11 Is that still your opinion today?

12 A. Yes.

13 Q. So the time --

14 (Simultaneous speakers.)

15 THE WITNESS: Wait. What page was that? I'm
16 sorry to interrupt. I want to look.

17 BY MR. MAYNE:

18 Q. 25, of your February 10th report.

19 A. Yes.

20 Q. So would you agree that the five shots
21 happened -- we're measuring from the first shot to the
22 last shot -- in approximately 1.25 seconds?

23 A. Or less than a second, yes. It's right at a
24 second. And we're giving a conservative opinion and not
25 lower.

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1 Q. Okay. So let's say a second. What I'm trying
2 to get at is it only takes a fraction of a second to
3 drop an object; right? I mean, you can drop it -- it
4 doesn't take a second for an object to lose contact with
5 somebody's hand. Would you agree with that?

6 A. That's correct.

7 Q. So what I'm trying understand is how you
8 decided in your opinion when the object in the
9 decedent's hand lost contact with his hand? I know it
10 happened sometime within that one second of the gunshots
11 or shortly thereafter. But how, in your reconstruction
12 of events, did you pin down the exact moment that the
13 gun lost contact with the decedent's hand?

14 MS. NASH: Objection. Misstates prior
15 testimony. Object to the form of the question based on
16 Counsel's paraphrasing of prior answers.

17 THE WITNESS: It wasn't stated by myself that
18 we determined when it was dropped. It's real simple.
19 It's right next to his body. And his body, with the
20 momentum, has carried him further than the point to where
21 the shooting started.

22 So that object is there, carried with the body.
23 Where it was dropped from his hand intentionally or
24 unintentionally, and in this case, in my opinion,
25 unintentionally because of force science, police

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1 practices -- and I don't want to get into that, because
2 that was not my assignment -- but it's just simple that
3 it didn't drop by his side at any point by the car door
4 where the shooting began, but it was along side him where
5 he went to his position of rest.

6 BY MR. MAYNE:

7 **Q. So I'm just trying to understand how you looked**
8 **at the evidence and ruled out that he could have lost**
9 **contact with the gun, let's say, at the time of the shot**
10 **to the chest, and that the gun -- I'm sorry -- the**
11 **object that was mistaken for a gun, carried on with its**
12 **momentum to rest where it ended up being found?**

13 A. Well -- there's no evidence -- I'm sorry. Go
14 ahead. I'm sorry.

15 MS. NASH: Objection to the form of the
16 question. Compound. Counsel is testifying, and so it
17 assumes facts not in evidence, and misstates the witness.

18 Sorry. Go ahead.

19 THE WITNESS: The evidence located the thing
20 that he had in his hand, shows that it was near his body
21 and not near the car door where the shooting started. So
22 it's pretty easy to know that it had to still be in his
23 hands when he's carrying it to the ground when he's
24 incapacitated by the shots to his person, mainly the one
25 that would be fatal to his chest.

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1 So as he's going to the ground, the item is
2 going with him. And in force science, that is not going
3 to happen. He's not going to throw it down. And the
4 officer, when he decides to shoot, when he sees the
5 threat, it happened so fast. And during that time, we
6 know the gun didn't go up -- I said the "gun," too -- we
7 know the glasses case didn't go up above the view of the
8 BWC, but it went below it.

9 And it's carried along with where he comes to a
10 position of rest. Had it dropped before that or thrown
11 down before that? There's no evidence of that.

12 BY MR. MAYNE:

13 **Q. I'm just going to share one page from your**
14 **report.**

15 A. What page?

16 **Q. It's page 13 from your January 10th report.**
17 **And I have it here on the screen.**

18 **Can you see that?**

19 A. Yeah. But I can look at it better on this
20 because that's -- it shows up on Zoom very small.

21 You said "page 13"?

22 **Q. Page 13 of the January 10th report.**

23 A. I have it.

24 **Q. So I'm just looking at the orange circle you**
25 **have around what's identified as the "eyeglass case."**

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1 And are we on the same page that the decedent's body was
2 found where the white line is -- or I'll let you
3 describe --

4 A. Where the white line is --

5 (Simultaneous speakers.)

6 BY MR. MAYNE:

7 Q. -- or your understanding where the decedent's
8 body rested relative to the white line?

9 A. Yes. He's in that area where the kit is from
10 one of the CHP units.

11 Q. So the eyeglass case wound up some distance
12 away from the decedent's body. Do you have an estimate
13 about how far that would be?

14 A. No, I do not.

15 Q. And the eyeglass case ended up there presumably
16 because it had forward momentum at the time it was
17 released from the decedent's hand; is that accurate?

18 A. Yes, all the items that you have there.

19 Q. So at the time of the first shot, if the
20 decedent's moving forward with the object in his hand
21 and loses contact with it, wouldn't that object still
22 have forward momentum to move forward?

23 A. If he's moving with it, yes. Especially if
24 he's running, yes.

25 Q. So how do we know that the object fell out of

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1 **the decedent's hand after the shot, versus losing**
2 **contact with the decedent's hand at the time of the**
3 **first shot?**

4 A. This happened so fast, again, that after the
5 first shot, if he lost contact with it, there's no
6 evidence of it because that would have been back by the
7 car door of the CHP unit or closer to it. Not ahead of
8 where the decedent has fallen, near that striped line,
9 the white line -- traffic lane line.

10 And he's in that area, but yet the glasses case
11 is in front of him. He's not on this side of it, "this
12 side" meaning toward the large circle, where the
13 cartridge cases are.

14 **Q. Okay. Thank you for bearing with me.**

15 (Reporter clarification.)

16 MS. NASH: Since we've been referring to the
17 reports and the witness has been testifying about that,
18 can we just mark each of them as exhibits?

19 MR. MAYNE: Sure. That's fine. We can make
20 those Exhibits 2 and 3. That's no problem.

21 So we'll make the January report Exhibit 2 and
22 the February report Exhibit 3.

23 (Exhibit Number 2 was marked.)

24 (Exhibit Number 3 was marked.)

25 BY MR. MAYNE:

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1 Q. Did you take any notes on the -- I think -- I
2 hope I haven't asked this already. Have you taken any
3 notes related to the reconstruction meeting you had?

4 A. Yes, you have those. They were sent you to
5 yesterday. A lot of -- a lot of notes. There's two
6 sets of notes that I have here.

7 And the first set, you should have that.

8 That's our first meeting that went nowhere, in November.
9 And then you have 20-some-odd pages, 23 pages. You have
10 those.

11 MR. MAYNE: Okay. Let me just look over my
12 notes. I think we're almost done. I want to see if I
13 missed anything, and then I'll finish up. So maybe just
14 five minutes, and then we'll come back and wrap things
15 up.

16 (Break taken.)

17 BY MR. MAYNE:

18 Q. Could you turn to page 40 of your January 10th
19 report, please?

20 A. Okay.

21 Q. In reviewing the evidence, how many shots did
22 you determine were shot by Officer Silva?

23 A. Five.

24 Q. And when you listened to the audio of the
25 body-worn camera, could you hear the Taser be deployed

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1 STATE OF CALIFORNIA)
2 COUNTY OF ALAMEDA) ss:
3

4 I, KIMBERLY E. D'URSO, do hereby certify:

5 That the witness named in the foregoing
6 deposition was present remotely and duly sworn to testify
7 to the truth in the within-entitled action on the day and
8 date and at the time and place therein specified;

9 That the testimony of said witness was reported
10 by me in shorthand and was thereafter transcribed through
11 computer-aided transcription;

12 That the foregoing constitutes a full, true and
13 correct transcript of said deposition and of the
14 proceedings which took place;

15 Further, that if the foregoing pertains to the
16 original transcript of a deposition in a federal case,
17 before completion of the proceedings, review of the
18 transcript [x] was [] was not requested.

19 That I am a certified stenographic reporter and
20 a disinterested person to the said action;

21 IN WITNESS WHEREOF, I have hereunder subscribed
22 my hand this 7th day of March, 2025.

23 _____
24 KIMBERLY D'URSO, CSR NO. 11372, RPR
25

